

Quid Novi



DEC 3 1992

Vol. XIII, No. 11

McGILL UNIVERSITY FACULTY OF LAW
UNIVERSITE MCGILL FACULTE DE DROIT

November 30, 1992
le 30 novembre, 1992

SO YOU WANT TO BE A ROCK AND ROLL STAR?

PART II - CLERKSHIPS

By Paul Moen; LLB III

Just imagine: the Federal Court of Canada, the Tax Court or even the Supreme Court of Canada. All of these courts have clerkships positions available for those students who are graduating. Most of the clerkships should be applied for directly; however, those interested in applying for a position with the Supreme Court of Canada must make an appointment with Professor Klinck. Although there may be others here a few of the clerkships available.

1. Supreme Court of Canada

The court is currently recruiting for clerkships starting in September 1994 or January 1995.

Deadline: March 1, 1993.

Application: applicants must submit a C.V., official transcripts from all post-secondary institutions attended, and three letters of recommendation, in addition to a letter written by the Dean of the Law Faculty.

Interviews are held in March and April, generally in Ottawa. Unsuccessful applicants will be advised by May 1, 1993.

Students might want to consult with professors in the Faculty who have been Supreme Court law clerks in the past. They are: Peter Benson, Alison

Harvison Young, Richard Janda, Cally Jordan, Daniel Jutras, Nicholas Kasirer, Dennis Klinck, Stephen Perry, Colleen Sheppard, and Stephen Toope.

2. Federal Court of Canada

The Court is currently recruiting for clerkships starting in September 1994.

Deadline: not yet available. Last year's deadline was March 8, 1992.

Application: applicants must submit a C.V., official transcripts from all post-secondary institutions attended, three letters of recommendation, a letter expressing interest in the position, and samples of legal writing.

3. Tax Court of Canada

The Court is recruiting articling students or recent graduates for the 1994-95 articling period.

Deadline: February 15, 1993.

Application: applicants must submit a C.V., official transcripts from all post-secondary institutions attended, four letters of recommendation, including one from the Dean of the Faculty of Law.

4. Court of Appeal of Ontario

The Court normally solicits applications from the six Ontario law schools

only. Nevertheless, students from McGill who intend to article and qualify in Ontario may apply.

Deadline: early January. Not specified last year, but interviews were held in Toronto in February. Applications had to be submitted prior to that. The Court complies with LSUC regulations on articling recruitment dates.

Application: applicants must submit a C.V., transcripts of law schools and undergraduate marks to date, a sample of their legal writing, and two written references from members of their law school faculty.

5. Toutes les Cours au Quebec

(cont'd on p.2)

IN THIS ISSUE DANS CE NUMERO

Announcements p.2

Fair Preocdure p.3

Stream of Consciousness
p. 5, 6

Important Notice from
Computer Lab p. 6



ANNOUNCEMENTS / ANNONCES

COURSE CHANGE PERIOD - for the second semester will now commence on December 1st, 1992 and not on January 4th, 1993 as announced in the Course Materials book distributed in June.

MISPLACED - Intellectual Property Casebook and Statute. I probably left them in class on November 10. If found please call Greg Moore at 278 - 2183

REVUE DE DROIT DE MCGILL / THE MCGILL LAW JOURNAL - second, third, and fourth year students may pick up their copies of Volume 37(3) and (4) from Sadie's.

THE SMOKING ROOM - is available to all smokers. Therefore, smoking will not be tolerated in either of the entrances on the ground floor to the faculty.

COIN DES / SPORTS / CORNER

Law & Co : A Hockey

Après 7 parties, l'équipe de droit est toujours invaincue. La combinaison d'étudiants de la faculté et de récents gradués fait que l'équipe est bien balancée et devrait bien représenter la

faculté aux "Jeux Ridiques". La présence des quelques spectateurs a été également bien appréciée par les joueurs; on souhaite avoir encore plus d'appui après Noël.

Rookies Dan, Damon and James have been good needed additions to the team. Warren C. has shed his "cement hands" completely and has affirmed himself again, this year as the team's enforcer. Graduate Robert M. has scored a couple of lefties and hopes are high that opposing goalies will start respecting his shot (NOTE. The players especially the couple of graduates who have played 6 years for this team without winning a title, are asking Santa for a championship ring (well, maybe a \$3.95 mug will do) Thanks again to all our fans in the hopes that you will be in greater numbers next year!.

Public Offenders

Well! The male cheerleading team (composed of two handsome and devoted fans) overdid their mandate on our last game: a beautiful 2-2 tie was in great part attributable to the superb coaching skills of Noah and Kiri (A.K.A. "Spankie") as well as Bordet-hubbie

Alan. Thanks guys! Of course they cannot take all the credit as the girls truly outdid themselves on the ice. Jennifer W. returned to her first year defense position and stopped more than one puck from crossing the blue line! Forwards Annie R. and Lucie P. assisted by all-star skater J. Michelin were acclaimed for their goals. I was very surprised to be called out of nets with one minute left in game time, but knew it had been a good call when I saw Lucie slide in the tying goal! Watch out for the game against the Professors next Friday at 2 p.m.!

Men's Volleybal: No Mercy

After a succesful regular season the expansion law school Men's V-ballers look to administer their own justice to play off opponents. Led by rookie sensation Rob "The Hammer" D., and Mike "Wall of Pain" A. as well as the antics of Pete "Mexican Jumping" Bean (How ya Bean, Pete?) No Mercy looks unstoppable in the post-season. Player, coach and spiritual leader Sanjay G. had these words after the last game "It was like leading lambs to the slaughter. I see four years of domination ahead". Vincent "Terminator" C. had this to say when asked for a comment: "Quoi?"

So You Want To Be A Rock and Roll Star? (Cont'd from p. 1)

La Cour d'appel, la Cour supérieure et la Cour du Québec (toutes les chambres) recrutent leurs clercs durant l'année qui suit la réception du diplôme. Les candidat(e)s doivent être inscrits au cours de formation professionnelle du

Barreau du Québec, et être éligibles au stage.

Date limite: non disponible à ce jour. L'an dernier, les candidature devaient être déposées avant la fin février.

Dossier: les candidats et les candidates doivent déposer une copie de leur C.V., une copie de leur relevé de notes universitaire, et une copie de leur dos-

sier de formation professionnelle, avec leur candidature.

6. Supreme Court of Nova Scotia (Appeal Division)

The Court is now recruiting for clerkships starting in September 1992 and

(Cont'd on the following page)

Quid Novi is published weekly by students at the Faculty of Law of McGill University, 3644 Peel Street, Montreal, H3A 1W9. Production is made possible by support of the Dean's office and by direct funding from the students. Les opinions exprimées sont propres à l'auteur. Toute contribution n'est pas publiée qu'à la discrétion du comité de rédaction et doit indiquer l'auteur ou son origine.

Rédactrice-en-chef/Editor-in-chief:

Maaïke de Bie

Directeur artistique/Artistic Director:

Denis Guénette

Directrice administrative/Administration Director:

Caroline Thomassin

Directeurs de l'information/Newsdirectors:

Nancy Girard and Paul Moen

Directrice des relations inter-universitaires/

Director for Inter-university relations:

Alexandra Gillespie

Rédacteurs/Editors:

David Abitbol; Paul Brown; Harry Dikranian, Greg Moore; Andreas Sautter, Jay Sinha and Marie-France St-Amour.

Production:

David Abitbol; Harry Dikranian; Josie Duan; Denis Guénette; Marie-France St-Amour; Andreas Sautter, Jay Sinha.

FAIR PROCEDURE: A STUDENT'S RIGHT?

By Tara Shewchuk

So You Want To Be A Rock and Roll Star? (Cont'd from p. 2)

May 1993. There are currently two positions available.

Deadline: January 31, 1993.

Application: applicants must submit a C.V., transcripts of marks in law school, and references from three people.

7. The Supreme Court of British Columbia (Court of Appeal)

The Court is now recruiting for clerkship in 1994-1995.

Deadline: not yet available. Last year's deadline was April 15, 1992.

Application: Applicants must submit resumé, photograph, summary of recent grades, two law school references. Interviews were held in May last year.

8. Court of Appeal of Alberta (and Court of Queen's Bench)

Normally there are six positions available in Calgary. The Court will be recruiting for 1994-1995 this year.

Deadline: interviews for out of province applicants are generally held during Christmas vacation period. Applications should be submitted before then.

Application: applicants must submit resumé, latest transcript of marks, current telephone number, small photograph and covering letter.

Those interested in obtaining more detailed information should consult the Placement Office, the reference section on the library and the "Canada Law List". In addition, feel free to contact Professor Klinck at 398-6615 in Room 22 O.C.D.H.

As a member of the McGill community, you should be aware of "the green book", which outlines your rights and responsibilities as a student. Not surprisingly, it is called "the Student Handbook of Rights and Responsibilities" and it contains, among other things, the procedures for disciplinary and grievance actions as well as the notorious sexual harassment regulations. Before you think that this is merely a "women's issue" and move on, please stop and reconsider that evaluation because the regulations affect EVERYONE.

You should be aware of the substantive nature of the present harassment regulations. Briefly (you should really look at them for yourself), complaints of sexual harassment are brought to one of four university-appointed "assessors." These individuals, who are untrained in dealing with such matters, evaluate the merits of the particular allegation. You, as either a complainant or a respondent, have no power to present evidence and you are excluded from bringing someone from "outside the McGill community" (i.e. a lawyer) into any proceedings. The assessor's evaluation, which includes recommended sanctions, is sent to the Principal, who renders the FINAL (there are not appeals) decision.

If you think that this process contradicts notions of "due process", you are not alone. The policy, quite simply, is an affront to the "fundamental rights and freedoms" that our university *Charter of Student Rights and Freedoms* professes to guarantee us. The implications of this policy are profoundly far-reaching. For instance, if you are accused of plagiarism or of intentionally misfiling a library book (I'm not kidding!), you have all the

protection of a legitimate, adjudicative process: you are heard before a panel; you may call and cross examine evidence (including witnesses); you may have a lawyer present; you have a right to an appeal for a procedural error. If you are accused of sexual harassment, you have none of these procedural safeguards. You may be expelled from the university and the procedure has no mechanism to ensure that the process was fair.

It is almost unnecessary to point out how detrimental this policy is for potential complainants. Nevertheless, some mention of the complainant's position must be made. Clients who have a concern about incidence of sexual harassment are often referred to the McGill Sexual Assault Centre. During my time there, there were a number of times that students, who had been subjected to **blatant** forms of sexual harassment, chose **not** to proceed with a complaint — simply because it was obvious that the procedure would not provide for a fair resolution.

On December 1st, the "Committee on the Regulations Concerning Complaints of Sexual Harassment" is meeting to evaluate whether the present policy should be reviewed. A submission evaluating this policy that I have prepared, supported in principle by Women and the Law, will be on the agenda of this meeting. It is (optimistically) hoped that the committee will resolve that the regulations should be reviewed. The next step will be to devise a more detailed proposal for reform. Next term, I welcome, and look forward to, any ideas that anyone may have on the form and substance that the new policy should contain.

Please contact me if you wish to take part in this important process.

'T WAS THE NIGHT...

By Joshua Fireman; BCL III

with apologies to the late Clement C. Moore,

'Twas the night before [insert favourite non-denominational holiday], when all through the [apartment; duplex; triplex; condo; house]

Not a creature was stirring, not even a [small, cuddly creature unlikely to traumatize small children].

The stockings were hung by the [front door; kitchen window; TV set; chimney] with care

In hopes that [Santa Schwartz; Krishna Klaus; St. Nick] soon would be there.

The children were nestled all snug in their [futons; beds],

While visions of [favourite designer health food] danced in their heads.

And [male/female mother-figure] in her kerchief, and I in my cap

Had just settled down for a long winter's [siesta; snooze; nap],

When out on the [sidewalk; fire escape; lawn] there arose such a clatter,

I sprang from my [futon; bed; place on the couch in front of the TV] to see what was the matter.

Away to the window I flew like a flash,

Tore open the shutter, and threw up the sash [i.e. broke the picture window and whipped out the infra-red binoculars].

Them moon on the [non-sexual body part; was breast!] on the new fallen snow

Gave a lustre of midday to objects below.

When, what to my [wondering; wandering; voyeuristic] eyes should appear,

But a miniature [sleigh; skidoo; ATV] and eight tiny [charming flying mammals (i.e. CFMs)],

With a [vertically and temporally challenged] driver so lively and quick,

I knew in a moment it must be [Santa Schwartz; Krishna Klaus; St. Nick].

More rapid than [proud, majestic hunter birds] his

coursers they came,

And he whistled and shouted and called them by name:

"Now, [fastest CFM]! Now [frolicking CFM]! Now, [gambolling and quarrelsome CFMs]!

On, [starlike CFM]! On [romantic CFM]! On [pedantic and judaeo snack-food CFMs].

To the top of the [porch; patio; cast-iron landing], to the top of the wall!

Now, [run; speed; tear] away! [Run; speed; tear] away! [Run; speed; tear] away all!"

As dry leaves that before the wild [wind with a velocity of 73 m.p.h. or more] fly,

When they meet with an obstacle, mount to the [outer reaches of our ozone-depleted atmosphere],

So up to the [dwelling-place roof] the coursers [defied gravity without the aids of wings]

With a [sleigh; skidoo; ATV] full of [non-violent, educational objects meant for amusement] and [Santa Schwartz; Krishna Klaus; St. Nick], too.

And then in a twinkling I heard on the [dwelling place roof]

The prancing and pawing [draw your own depraved conclusions] of each little [horny casing of foot].

As I drew in my head and was turning around,

Down the [entranceway of least resistance] [Santa Schwartz; Krishna Klaus; St. Nick] came in with a bound.

He was dressed in all [Gortex (TM); Thinsulate (TM); the hides of dead, snugly animals] from his head to his foot,

And his clothes were all tarnished with [ashes; soot; dust left by the underpaid, exploited immigrant maid].

A bundle of [non-violent, educational objects meant for amusement] he had flung on his back,

And he looked like a [person selling items to subsist in a market economy] just opening his

pack.

His eyes - how they twinkled! His dimples - how merry!

His cheeks were like roses, his nose like a cherry!

His droll little mouth was drawn up like a [curve twist; arch; bow],

And the [hair on the lower face generally used to assert manhood] was white as the snow.

The stump of a [cancer-inducing, smoking device] he held tight in his teeth,

And the [filthy, unhealthy, second-hand fumes] encircled his head like a [crown of thorns].

He had a broad face and a [large, unseemly junk-food induced belly]

That shook when he laughed, like a bowl full of [gelatinous, ground horse's bones].

He was [horizontally challenged], a right jolly old [pagan faerie],

And I laughed when I saw him, in spite of [my cruel, abusive self].

A wink of his eye and a twist of his head

Soon gave me to know [I was safe with my gun by my side].

He spoke not a word but went straight to his [stealth-like mission],

And filled all the stockings; then turned [suddenly in such a way as to cause me to release the safety of my pistol],

And laying his finger aside of his nose ['nuf said],

And giving a nod, up the [entranceway of least resistance] he rose.

He sprang to his [sleigh; skidoo; ATV], to his team gave a whistle,

And away they all flew [like a Soviet missile].

But I heard him exclaim ere he drove out of sight

"HAPPY [NON-DENOMINATIONAL HOLIDAY] TO ALL, AND TO ALL A GOOD NIGHT!"

STREAM-OF-CONSCIOUSNESS

By Paul Brown; LLB II

I have a plan. I am going to sit here and write an article so long that Joshua won't have an opportunity to fit one in this week's Quid. Not that I don't appreciate his efforts, but it does get on my nerves to always see his name plastered throughout the Quid...

Actually, I lie. I'm only mentioning poor Joshua because I pity him. He keeps on writing in order to get a response from the student body which in turn is exhibiting the life signs of a fossilized bug. So here it is. A response. Not to anything in particular, not saying anything of importance, but a response nevertheless.

I actually am writing this because I have a confession to make. Nothing big and scandalous, but a confession nevertheless (it seems that this article has taken on the repetitive and resolved air of nondescript-ness already...). Actually on second thought this confession might be scandalous to some people, namely the people who admitted me to the faculty. The truth is that I have never wanted to be a lawyer (on third thought this third thought might actually be a stupid thought when you consider the possible reaction to this revelation by the people concerned in my second thought). Some of my friends know this already, and others actually share the same sentiment.

You have to admit that the legal profession does not enjoy the best of reputations, with the "reasonable man" (ever wonder why "they" always attribute the attribute of reasonableness to men? Seems to be an oxymoron to me sometimes... (Trivia question... who was the last female warlord of general or war heroine in

any civilization in history who was not later canonized — by men?)) prudently lumping an upcoming appointment with his lawyer in the same echelon of desirableness as an appointment with his dentist for a root canal surgery. Just goes to show that having your teeth drilled out by a dentist is about as painful an operation as that of having your wallet sucked dry by your lawyer...

I'm sure that the legal profession is at its heart a noble one, founded on the notion of helping those who cannot help themselves to attain justice. It's just sometimes I have the same type of problem continuing believing this as someone who fervently believes that the world will end at midnight must fell five minutes after 12...

It's fun to be in my position in the school, studying in the classes, and yet not totally subscribing to the purpose behind them. Sometimes it feels like being in the backseat of the car while someone else is driving. The driver has to concentrate on following all of the twists and turns of the road, and in law school, to be wary of other drivers. The passenger in the backseat gets to look at the scenery, sleep, and make cheap comments on the poor driving abilities of his/her chauffeur that probably relate to the chauffeur's ancestry having sprung up from the wrong side of the primordial pool of sludge... The only limits to this stream-of-consciousness study of the chauffeur's family tree are those imposed by the realization that the chauffeur carries within his/her body all of those genes that enabled his/her family to scrap its way into sentience.

One thing you notice is that the drivers on the road (I'm continuing the metaphor..(just being explicit...seems the dean didn't understand my last ar-

ticle and was running around asking people for explanations...)) are in a hurry. They seem to have caught the Montreal affliction and are blowing through red lights as they accelerate up the on-ramp leading to the highway. Once there, they virtually fly in a straight line to their destination (for many of the anglos the highway would be the 401, the destination, Bay Street, Toronto, and the time, 3 years even). Scenery? What scenery?

A few travellers will perceive some farms along the flight path ("Didn't we touch upon them in Common and Civil law property?") as they continue their ballistic trajectory. Memories of colourful suits involving easements and real servitudes... ("Pretty patchwork of fields. Lessee: the green ones must be twenties, hmmm the reds are fifties, the browns are...(So I'm exaggerating a little here. What's that that they call it again, artistic licence?)

I wonder how many people harbour very similar thoughts as me: "I'm not the same as them, I'm *never* going to be a lawyer!" With these safely expressed, we can gloat and in a pseudo-detached fashion observe how different we are(n't) from everyone else in the faculty. We're not in the faculty for the money and prestige it offers to those well-balanced individuals who emerge from our library/sauna just long enough to write exams and accept awards and job offers. We are in it because we have nothing better to do and the faculty made the big mistake of accepting such deviants as us.

For us, law is fun. The prospect of viscerally embracing the manifestly logical fundamental underpinnings of tort law or the separate but unequal Civil Codes makes our hearts palpitate. Yum, yum, more substance for

(Cont'd on p. 6)

Stream of Consciousness (Cont'd. from p. 5)

us! Ah! Everyone should learn this stuff, for we all shall become much better people. Latin is fun. Latin is impressive. Latin is a sign (*prima facie* of course) that we're smart buggers. Gotta learn that Latin to impress (and confuse) the parents. If they don't understand it, how can they complain that you're wasting your time learning something that *everyone* knows?

So why am I here? Where else can I get the government to pay something like 80% of my expenses while I hide out from the real world for 4 years? There aren't many deals like that around anymore. Perhaps I'll finally understand enough from Shragie's Taxation class to figure out another one to take over when I'm finished here...

Consider this: law school is the 90's equivalent to the 60's "tuning out" (or was that "tuning in"...?). It is fiscally responsible when you consider that I *should* be employable when I get out of here, and I can still partake in the 60's celebration of navel-gazing. Where else can you study in a faculty that pictures itself as far-sighted at the same time that it collectively stops by the optometrist for a stronger prescription to combat

myopia?

Let me be honest. Much closer to the truth is that this article serves as the final banshee wail signalling the death of my resistance to the indoctrination into law school mind-set. Gone are the aspirations to pass my days (nights ?) writing works of sarcasm, firing it off with the intensity and "accuracy" of the U.S. forces' "surgical" (read carpet) bombing of Iraq. Or are they?

The Supreme Court of Canada's tedious judgements have always (let's take that last word in a relative sense to my law school career...say "for the last 14 months" if you insist on being accurate) been a pet peeve of mine. What is it about red robes that induces jurists to pump out tortured and convoluted judgements with the speed and intensity of pulp paperback writers? Put me on the Supreme Court. That's where I fit in to the legal system in Canada (I've got about as much experience as the trend in choosing Supreme Court justices dictates should be required of the next appointment...).

Wouldn't that be the ultimate

justice? I'd have a captive audience of jurists who would have to read my 150 page decisions that I'd ensure would deal with the case at bar (albeit obliquely and from the viewpoint of outfield...). One hundred and fifty odd (the odder the better) pages of sarcasm to add to Canadian jurisprudence. Per case. It'd be easy. Every case would furnish me with the topic to rant about and the requisite inherent stupidities that I would need to fester on.

It would be a change of pace for Canadian law. Why does it have to be so serious all the time? If you as jurists have to read 150 pages of a case, wouldn't you prefer that it be *readable*? To gain insight into whether I supported the plaintiff or the defendant's case, you would simply have to tally the amount of sarcasm directed to each party. Whoever gets less wins the case. No worries about whether what I was saying was really *obiter* of *ratio*. It would all be pure *sarcastius paulius* to be measured in quantity, not quality. Some things never do change...

I'll bet that Joshua never thought of writing for the Supreme Court of Canada. Go ahead Josh. Fill up the Quid all you want. See if I care. I'm getting fitted for my red robe tomorrow...

IMPORTANT NOTICE

On **December 16, 17 and 18** the Computer Lab will be **closed** from 8 a.m. to 5:30 p.m. After 5:30 p.m. the Computer Lab will be open for students.

If students are working on papers due at the end of the term or on take-home exams, please go to SAO, there will be forms available that you have to fill in and we will try to arrange a computer for you.